

SUBCHAPTER IV—JUDICIAL REVIEW

§ 1571. Judicial review

(a) Agency statements on significant regulatory actions

(1) In general

Compliance or noncompliance by any agency with the provisions of sections 1532 and 1533(a)(1) and (2) of this title shall be subject to judicial review only in accordance with this section.

(2) Limited review of agency compliance or noncompliance

(A) Agency compliance or noncompliance with the provisions of sections 1532 and 1533(a)(1) and (2) of this title shall be subject to judicial review only under section 706(1) of title 5, and only as provided under subparagraph (B).

(B) If an agency fails to prepare the written statement (including the preparation of the estimates, analyses, statements, or descriptions) under section 1532 of this title or the written plan under section 1533(a)(1) and (2) of this title, a court may compel the agency to prepare such written statement.

(3) Review of agency rules

In any judicial review under any other Federal law of an agency rule for which a written statement or plan is required under sections 1532 and 1533(a)(1) and (2) of this title, the inadequacy or failure to prepare such statement (including the inadequacy or failure to prepare any estimate, analysis, statement or description) or written plan shall not be used as a basis for staying, enjoining, invalidating or otherwise affecting such agency rule.

(4) Certain information as part of record

Any information generated under sections 1532 and 1533(a)(1) and (2) of this title that is part of the rulemaking record for judicial review under the provisions of any other Federal law may be considered as part of the record for judicial review conducted under such other provisions of Federal law.

(5) Application of other Federal law

For any petition under paragraph (2) the provisions of such other Federal law shall control all other matters, such as exhaustion of administrative remedies, the time for and manner of seeking review and venue, except that if such other Federal law does not provide a limitation on the time for filing a petition for judicial review that is less than 180 days, such limitation shall be 180 days after a final rule is promulgated by the appropriate agency.

(6) Effective date

This subsection shall take effect on October 1, 1995, and shall apply only to any agency rule for which a general notice of proposed rulemaking is promulgated on or after such date.

(b) Judicial review and rule of construction

Except as provided in subsection (a) of this section—

(1) any estimate, analysis, statement, description or report prepared under this chap-

ter, and any compliance or noncompliance with the provisions of this chapter, and any determination concerning the applicability of the provisions of this chapter shall not be subject to judicial review; and

(2) no provision of this chapter shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action.

(Pub. L. 104-4, title IV, § 401, Mar. 22, 1995, 109 Stat. 70.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 104-4, Mar. 22, 1995, 109 Stat. 48, known as the Unfunded Mandates Reform Act of 1995. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

CHAPTER 26—DISCLOSURE OF LOBBYING ACTIVITIES

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 219; title 22 section 613; title 31 section 1352.

§ 1601. Findings

The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decision-making process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

(Pub. L. 104-65, § 2, Dec. 19, 1995, 109 Stat. 691.)

EFFECTIVE DATE

Section 24 of Pub. L. 104-65 provided that:

“(a) Except as otherwise provided in this section, this Act [see Short Title note below] and the amendments made by this Act shall take effect on January 1, 1996.

“(b) The repeals and amendments made under sections 9, 10, 11, and 12 [amending section 4804 of Title 15, Commerce and Trade, section 219 of Title 18, Crimes and Criminal Procedure, sections 611, 613, 614, 616, 618, and 4002 of Title 22, Foreign Relations and Intercourse, section 1352 of Title 31, Money and Finance, and section 1490p of Title 42, The Public Health and Welfare, repealing sections 261 to 270 of this title and section 3537b of Title 42, and repealing provisions set out as a note under section 261 of this title] shall take effect as provided under subsection (a), except that such repeals and amendments—

“(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

“(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.”

SHORT TITLE

Section 1 of Pub. L. 104-65 provided that: “This Act [enacting this chapter, amending sections 3304 of Title 5, Government Organization and Employees, section 102 of Pub. L. 95-521, set out in the Appendix to Title 5, section 4804 of Title 15, Commerce and Trade, sections 207 and 219 of Title 18, Crimes and Criminal Procedure, section 2171 of Title 19, Customs Duties, sections 611, 613, 614, 616, 618, 621, and 4002 of Title 22, Foreign Relations and Intercourse, section 1352 of Title 31, Money and Finance, and section 1490p of Title 42, The Public Health and Welfare, repealing sections 261 to 270 of this title and section 3537b of Title 42, enacting provisions set out as notes under this section, section 3304 of Title 5, section 102 of Pub. L. 95-521, set out in the Appendix to Title 5, and section 207 of Title 18, and repealing provisions set out as a note under section 261 of this title] may be cited as the ‘Lobbying Disclosure Act of 1995’.”

§ 1602. Definitions

As used in this chapter:

(1) Agency

The term “agency” has the meaning given that term in section 551(1) of title 5.

(2) Client

The term “client” means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) Covered executive branch official

The term “covered executive branch official” means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any member of the uniformed services whose pay grade is at or above O-7 under section 201 of title 37; and

(F) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5.

(4) Covered legislative branch official

The term “covered legislative branch official” means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) Employee

The term “employee” means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) Foreign entity

The term “foreign entity” means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b))).

(7) Lobbying activities

The term “lobbying activities” means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) Lobbying contact

(A) Definition

The term “lobbying contact” means any oral or written communication (including an electronic communication) to a covered ex-